

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
REPLY BRIEF**

76-7568

** PLEASE RETURN TO **
** RECORDS ROOM **

B

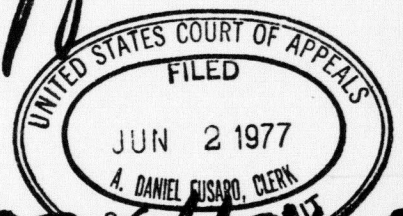
JUN - 1977

76-7568

United States Court appeals
For the Second Circuit

RENE GRINAN

PLAINTIFF-~~DEFENDANT~~



US
STATE OF NEW YORK DIVISION OF
HUMAN RIGHTS-
DEFENDANT-~~APPELLEE~~

REPLY-DEFENDANT BRIEF
RENE GRINAN
PLAINTIFF/PRO SE,

UNITED STATES COURT OF APPEALS
Second Circuit
United States Courthouse Foley Square
New York 10007

Docket No 76-7568

Cal. No. 1079

Re: Rene Grinan v. State of N.Y., Division of Human Rights .

A plain, concise statement of the claims, pursuant Title 42:U.S.C. SS 2000(e)
-5. JURISDICTION AND POWER OF COURT.

Federal Courts alone have power to enforce compliance with this subchapter. Federal district Court should not be deprived of jurisdiction of action under this subchapter because violations complained of continued throughout the administrative process.

This subchapter gives courts jurisdiction to correct alleged unlawful employment practices because of race and color and to provide a remedy for present and continuing efforts of past discrimination.

(1) Defendant State of New York., Division of Human Rights, violate of section 2000e-3(a) of Title 42, U.S.C.

Because I am as plaintiff's Pro se, filed a complaint on February 3, 1975 against employer City of New York Health and Hospital Corporation at the State of New York Division of Human Rights after previous complaints filed

tion 2000e-3(a) of Title 42, U.S.C.

Because I am as plaintiff's Pro se, filed a complaint on February 3, 1975 against employer City of New York Health and Hospital Corporation at the State of New York Division of Human Rights, after previous complaint filed in the City of New York Division of Human Rights on July 23, 1974. Defendant know that in March 25, 1975 I was made a Conciliation Agreement at State of New York Division of Civil Rights on Human Rights, forced by the defendant and that the Conciliation Agreement was violate by employer before a year Expiration on January 19, 1976, with my discharge made by Goldwater Memorial Hospital dependence of the defendant as an action of reprisals to my opposition of unlawful employment practices of discrimination previous filed at City of New York Human Rights Commission, and State of New York Division of Human Rights on February 3, 1975.

(2) Defendant State of New York, Division of Human Rights, violate this Subchapter 2000e-3(a), by the determination and order after investigation with - determinate NO PROBABLE CAUSE, after my discharge made on January 19, 1976 with out Civil Service Hearing, State of New York American Nurse Association Hearing and hearing between employer state of New York Division of Human Rights and my self as complainant and Citizens of the United States of America. Also by admitting my discharge definitive in March 11, 1976 by my participate in any manner in an investigation, proceeding, or hearing under this subchapter, because my charge with the State of New York Division of Human Rights was filed in March 1, 1976. I am was resulting discharge in March 11, 1977. Also I was in proceeding a claims of compensation benefits, since December 11, 1975 and was resulting discharge by employer on January 19, 1976, during the proceesing of my claims compensation.

(3) Defendant State of New York Division of Human Rights, Know I was injured accidentally by a Physician while I was on duty, on December 11, 1975. and the defendant was lie and slander in his determination that say I was injured by my self while on duty. Exhibit A, Supervisor Nursing Report, dated on December 11, 1976.

(4) Defendant State of New York Division of Human Rights, Know was slander on lie on his determination about I was ~~refused~~ absolutely refused to submit to such examinations by respondent's physician. Exhibit B, C, D, dated on December 11, 1976, December 17, 1975, January 19, 1976. report made by Respondent's physician.

(5) Defendant State of New York Division of Human Rights, know I no was absented by my self, because I was suspended of employee and salaries on January 19, 1976 by employer. Exhibit E, dated of suspension of employee made by the employer. The are others slander made by defendant State of New York Division of Human Rights on his determination.

(6) Defendant State of New York Division of Human Rights, Know I no was absented by my self without permission for an extended period of time, because the employer handle a certificate from my private Physician. Exhibit F, that clear say I cannot avaiable to work atfer February 24, 1976, and I was discharge on January 19, 1976. During the proceesing of my compensation - claims by the injured occurrido on December 11, 1975. Exhibit G, Compensation - filed by the employee lunches on March 11, 1976 almost 90 days of

sented by my self without permission for an extended period of time, because the employer handle a certificate from my private Physician. Exhibit F, that clear say I cannot available to work after February 24, 1976, and I was discharge on January 19, 1976. During the proceessing of my compensation - claims by the injured occurrido on December 11, 1975. Exhibit G, Compensation papers filed by the employer lanches on March 11, 1976 almost 90 days of occurred the accident at Goldwater Memorial Hospital dependence of the - employer City of New York Health and Hospital Corporation.

(7) This Exhibits from "A" to "G" are sufficient claim can be developed from a set of facts which give rise to one or more legal rights, also if the plaintiff's is entitled to relief under any legal theory, because I am as plaintiff in civil rights action need not allege defendant's specific intent to deprive my constitutional rights, In matters of pleading, federal courts are not governed by state practice but by this rules of the Federal Rules of Civil Procedure and of the Federal Rules of Appellant Procedure. Courts must construe pro se complaints generously, pro se, complaint is entitled to liberal construction so as to do substantial justice. In the matters I am as plaintiff's Pro se, I need the Court respectfully should be - construed so as to do substantial justice.

(8) I am as complainant need not detail a sue to individual defendants, when cause of action is against State of New York Division of Human Rights and substantial relief is sought against them, they are real parties in interest.

(9) In civil rights action Where caption of complaint did not list individual State of New York Division of Human Rights members as defendants, -- only the State of New York Division of Human Rights board is a defendant.

(10) The argument of the complrint, liberally construed, was improperly -


Page No 3.

dismissed, because was filed in accordance of The Title 42 U.S.C. Section 1983, 2000e(2), 2000e-3, 2000e-5, that the United States District Courts alone have power to enforce compliance with this subchapters of this title are directed at the maladministration, neglect and disregard of laws by state and local officials, and have purpose of providing a federal remedy for deprivation of federally guaranteed rights.

CONCLUSION

The Decision and Order of the District Court Dismissing the Complaint was made improperly, and the defendant should be - Guilty by Violations of this title 42 U.S.C. And other laws.

Dated: New York, New York
May 29, 1977.

Respectfully submitted,

RENE GRINAN, Plaintiff's Pro se,
Appellant.

Shorn and subscribed before me this 3/ day of May, 1977.


BERNARD WECKER
NOTARY PUBLIC, State of New York
Qual. in County of New York
Certificate filed in Queens Co.
Commission Expires March 30, 1979

cc: State of New York Division of Human Rights
C/O. GEORGE D. ZUCKERMAN, DOMENICK J. TUMONARO
Assistant Attorneys General of Counsel.

Certified No 466207 R.R.R. To State of New York Division Of Human Rights.

Mail Certified No 466207. R.R.R. United States Court of Appeals
Second Circuit United States Courthouse, Foley Square. N.Y. 10007.

SR. 21.4 20M-930167(69)
NEW YORK CITY
HEALTH AND HOSPITALS CORPORATION

INSTRUCTIONS:
Print in quadruplicate.

SUPERVISOR'S REPORT OF INJURY/ACCIDENT TO EMPLOYEE

1 NAME OF INJURED EMPLOYEE (LAST, FIRST, MIDDLE) GRINAN, RENEE										2 PAYROLL TITLE STAFF NURSE	
3 HOSPITAL/BUREAU GOLDWATER MEM. HOSPITAL										4 DIVISION NURSING	
5 EMPLOYEE'S ADDRESS 157 14TH ST. Hoboken, N.J. 07030										6 TELEPHONE NUMBER None	
7 AGE 49	8 SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	9 DATE OF ACCIDENT 12/11/75		10 TIME OF ACCIDENT 11:35 A.M.		11 CHECK ONE <input checked="" type="checkbox"/> TIME LOST <input type="checkbox"/> NO TIME LOST					
12 EXACT LOCATION OF ACCIDENT (SPECIFY) B-41		CHECK ONE <input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY		13 CARE PROVIDED <input type="checkbox"/> FIRST AID <input type="checkbox"/> HOSPITAL CARE <input type="checkbox"/> OTHER (SPECIFY)							
14 DESCRIBE FULLY HOW THE ACCIDENT OCCURRED. While assisting the ward doctor (Dr. Singh) with blood extraction on patient Jose Sanchez, Dr. Singh accidentally struck him on (R) middle finger w/ the dirty needle.											
15 NAME OF WITNESS Dr. Singh				ADDRESS G.M.H.				TITLE WARD MD.			
16 EXAMINATION DATE 12/11/75		TIME 1:41 P.M.		PLACE G.M.H.		NAME OF EXAMINING PHYSICIAN Dr. Singh					
17 STATEMENT OF MEDICAL FINDINGS AND DIAGNOSIS AS RECORDED BY EXAMINING PHYSICIAN Right middle finger sustained a laceration with blood. There is visible wound on ground. Also inflammatory reaction is noted over the involved joint (Second metacarpal joint). I observed when telephone conversation with Dr. Singh that the patient Jose Sanchez had a history of malnutrition, alcoholism, and a history of infection (Klebsiella pneumoniae and Pseudomonas).											
18 DISPOSITION (CHECK ONE) <input type="checkbox"/> RETURNED TO DUTY <input type="checkbox"/> UNABLE TO RETURN TO DUTY						19 WHEN DID YOU FIRST LEARN OF INJURY/ACCIDENT TO EMPLOYEE? DATE 12/11/75 TIME 1 P.M.					
20 SIGNATURE OF SUPERVISOR MAKING REPORT Leticia Nunez						TITLE Supervisor		DATE OF REPORT 12/11/75			

2-HOSPITAL PERSONNEL OFFICER

EXH "A"

BEST COPY AVAILABLE

GOLDWATER MEMORIAL HOSPITAL
EMPLOYEES HEALTH CLINIC REFERRAL

Date: 12/11/75

Ward or Division B-41

EXH. B.

Name: Grinan, Pepe

Reason for Referral: Accidentally struck on (L) middle
finger with a dirty needle - used in drawing blood from pt.

Time Left Working Area: 1:30 PM

John R. R.
Supervisor

Findings, Diagnosis, Instructions, etc: _____

Injury to Right middle finger from

accident.

Referred to U. general doctor.

Duty, Recommendations: Off duty

Time Left Clinic: 2:35 PM

P. Parnham
Physician

To Employee:

RETURN THIS FORM TO TIMEKEEPING OFFICE

GOLDWATER MEMORIAL HOSPITAL
EMPLOYEES HEALTH CLINIC REFERRAL

EXH. C

DATE: 12/17/75. TOUR & WARD: B44-2nd

NAME: Percy Gorman

REASON FOR REFERRAL: Lat off Comp. - Injury on

clay - 12/17/75. Lat advise for return to duty.

TIME LEFT WORKING AREA: 8:15 AM. J.T. Meade A.D.N.
SUPERVISOR

FINDINGS, DIAGNOSIS, INSTRUCTIONS, ETC: _____

Rt middle finger injury healing -

Referred to his P.M.D.

DUTY RECOMMENDATIONS: Off duty

TIME LEFT CLINIC: 9:15 AM M.P. Sam M.D.
PHYSICIAN

TO EMPLOYEE: PLEASE RETURN THIS FORM TO TIMEKEEPING OFFICE

Goldwater Memorial JANUARY-19-76.
Hospital

I am RENE GRINAN Employee NO 265-68-0702
on Compensation - from 12-11-75 to present 1-19-76 -
by accident occurred work time I came for pay period.
end January - 3-1976 - I was sent to clinic for -
doctor examine at the private doctor -
Certification for return work at 2-24-76
I am on my rights refused to sign return
and take doctor examine.

Rene Grinan Rn.

D
E
X
H
I

GOLDWATER MEMORIAL HOSPITAL

EMPLOYEES HEALTH CLINIC REFERRAL

DATE: 1-19-76

TOU & WARD: R-41²

NAME: Rene Grinan

REASON FOR REFERRAL: 77 duty since 12-11-75. By Dr. M.

middle finger (lost attached) X-ray examine & advise

TIME LEFT WORKING AREA: 10²⁰ AM

M. Lopez
SUPERVISOR

FINDINGS, DIAGNOSIS, INSTRUCTIONS, ETC: Employee & others

Examination lost finger has X-ray on attached

but has X-ray tell him to pay all until 2-24-76 am I have

no right to work from 2-24-76 Refused to sign return

DUTY RECOMMENDATIONS:

TIME LEFT CLINIC: 11³⁰ AM

PHYSICIAN

TO EMPLOYEE:

PLEASE RETURN THIS FORM TO TIMEKEEPING OFFICE

NEW YORK CITY HEALTH AND HOSPITALS CORP.

Indweller HOSPITAL

RECORD OF INTERVIEW

Date 1-19-76

Name Rene G. Garcia

EXH E

Address N.Y. - B-41

Interview Requested by.....

Interviewed with Mrs. Grijalva
S. W. Representative

Purpose: To Discuss Refusal of Examination - Re. Corp. Claims

Details of Interview: Employee still maintains that he is
refusing examination as he is under the care of his
physician, states it is illegal for any one else
to examine him.
Consequence of Refusal discussed with employee and
Mrs. Grijalva. Advised this is insubordination
and he is therefore suspended.

Personal Impression: (Appearance, Attitude, Personality, etc.)

Comment read to employee: Refused to sign.

Witness: Francis Arcara
Advised:

Interviewed by: M. L. Lopez
Title: Assoc. Dir. of Nursing

~~EXHIBIT 8~~

H-1

The City of New York—Department of Hospitals

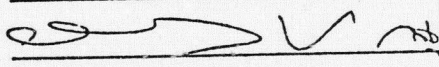
PHYSICIAN'S STATEMENT OF DISABILITY

Re: Rene Grinan I.D. No. 265-68-0702 Title: Staff Nurse. R.N.
Employed at: Goldwater Memorial Hospital

This is to certify that the above named has been under my professional care since 12/11/75.
Diagnosis: Poss. Hepatitis

Date of Onset: 12/11/75 Prognosis: Good

In my opinion, by reason of this condition, this employee may not be expected to resume normal work activities until 2/24/76.

Signature of M.D.	Address	Tel. No.	Date
	ORLANDO DEL VALLE, M.D. 100 35th STREET UNION CITY, N. J. 07087 TEL. 863-0111		1/15/76

S.R. 3057-25X-1011097-60(69) 346

H.

PHONE 863-0111-12

REG. NO. 21818
ADD671607

Orlando del Valle, M. D.

PARK AVE. AT 35TH STREET

UNION CITY, N. J.

NAME Rene Grinan AGE 49
ADDRESS _____ DATE 1/12/76

R. The above pt. is under my care since 12/11/75. because there is a dirty needle in the finger. This pt. needs to get out of work till about 2/24/76, for observation due to possible Hepatitis. Blood work pending. Good in mind

NO REFILL
REFILL NO. 1-2-2-4

This is a proved action I was absence after injured occurred on December 11, 1975, Also that I was suspended on January 19 after the employer handle it.

New York
ROCHESTER
Livingston
SYRACUSE
Cayuga, H.

SURE T

(10-74)

OF NEW YORK

WORKMEN'S COMPENSATION BOARD

BEST COPY AVAILABLE

ATTENDING PHYSICIAN'S
SUPPLEMENTARY REPORT

Show Type of Report: ☐ 15-DAY REPORT

☐ PROGRESS REPORT

☐ FINAL REPORT

PRINT OR TYPE — INCLUDE ZIP CODE IN ALL ADDRESSES

WCB CASE NO. (If Known)	CARRIER CASE NO. (If Known)	DATE OF INJURY AND TIME	ADDRESS WHERE INJURY OCCURRED (City, Town or Village)	SOCIAL SECURITY NUMBER
0761 0245	10858-75R	12-11-75	New York City	265-68-0702
INJURED PERSON	NAME RENE GRIMAN	AGE 48	ADDRESS 157-10 41st Hspitons NY	
EMPLOYER INSURANCE CARRIER	Goldwater Memorial Hospital		Riverside Island N York Queen	

ANSWER ALL QUESTIONS. AVOID USE OF INDEFINITE TERMS SUCH AS "UNKNOWN," "?," ETC.

HISTORY

1. Have you filed Form C-48, or other report, setting forth history? ☐ YES ☒ NO

If "No," answer
1 (a) and (b) below.

(a) State how injury occurred and give source of this information. (If claim is for occupational disease, include occupational history and date of onset of related symptoms).

Struck a needle accidentally in rt. middle
finger (small wound). Drawing blood
from pt

(b) Was patient previously under the care of
another physician for this injury? ☐ YES ☒ NO

If "Yes," enter his name and address, and
reason for transfer under "Remarks" (Item 10).

2. Is there a history or evidence of pre-
existing injury, disease or physical impairment? ☐ YES ☒ NO

If "Yes," describe specifically:

DIAGNOSIS

3. Present condition (include diagnosis, subjective complaints, objective findings, and any change of condition since last report. If patient was hospitalized since last report, so state and give name and address of hospital):

Pt was under observation for a period
of 90 days for a possible Hepatitis (viral)
Liver function was done and found neg. Pt.

TREATMENT

Nature of treatment:

Antibiotics, B-complex and rest

Date of your
first treatment:

12/11/75

Date of your most
recent treatment:

3/11/76

Are you continuing
treatment?

☐ YES ☒ NO

If treatment is continuing, estimate its probable duration.
If it has terminated, indicate reason.

D I A G N O S I S	3. Present condition (include diagnosis, subjective complaints, objective findings, and any change of condition since last report. If patient was hospitalized since last report, so state and give name and address of hospital):													
	PT was under observation for a period of 90 days for a possible Hepatitis (viral) Liver-funktion was done and found neg. PT.													
T R E A T M E N T	Nature of treatment: <i>as above on 3/11/76</i>													
	Date of your first treatment: <i>12/1/75</i>	Date of your most recent treatment: <i>3/11/76</i>	Are you continuing treatment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO											
	If treatment is continuing, estimate its probable duration. If it has terminated, indicate reason.													
D I S A B I L I T Y	5. May the injury result in permanent restriction, total or partial loss of function of a part or member, or permanent facial, head or neck disfigurement?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO										
	If "Yes," describe:													
	6. On what dates do you think patient was or will be able to:		Is patient working?											
	(a) Resume limited work of any kind? Date:	(b) Resume his regular work? Date: <i>3/12/76</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO											
C A U S A L R E L A T I O N	7. If patient is unable to do his regular work, but can do limited work, specify his work limitations due to this injury. <i>none</i>													
	8. In your opinion, was the occurrence described above (or in your previous report which gave this information) the competent producing cause of the injury and disability (if any) sustained?			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO										
	9. Is rehabilitation treatment or services or evaluation therefor advised?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO										
R E H A B I L I T A T I O N	Explain:													
	If rehabilitation treatment or services or evaluation is advised, has referral been made?			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO										
R E M A R K S	If "Yes," to whom? If "No," indicate why.													
	10. Enter here additional information of value, requests for authorization, etc.													
<table border="1"> <tr> <td>Dated <i>3/12/76</i></td> <td>Typed or Printed Name of Attending Physician</td> <td colspan="3">Address <i>100 3rd Street</i></td> </tr> <tr> <td>WCB Rating Code</td> <td>WCB Authorization No.</td> <td>Telephone No.</td> <td colspan="2">Written Signature of Attending Physician <i>[Signature]</i></td> </tr> </table>					Dated <i>3/12/76</i>	Typed or Printed Name of Attending Physician	Address <i>100 3rd Street</i>			WCB Rating Code	WCB Authorization No.	Telephone No.	Written Signature of Attending Physician <i>[Signature]</i>	
Dated <i>3/12/76</i>	Typed or Printed Name of Attending Physician	Address <i>100 3rd Street</i>												
WCB Rating Code	WCB Authorization No.	Telephone No.	Written Signature of Attending Physician <i>[Signature]</i>											

ANSWER ALL QUESTIONS. AVOID USE OF INDEFINITE TERMS.

See Reverse Side

14

EXH "G" 1

C-1 (270)

City Depts: Send Forms to Workmen's Compensation Sect., Law Dept., 250 Broadway.

70N-717087(72) J46

MAR 5 '75 29

C-2 (4-68)

STATE OF NEW YORK
WORKMEN'S COMPENSATION BOARD

EMPLOYER'S REPORT
OF INJURY

PLEASE PRINT OR TYPE

Send this notice directly to Chairman, Workmen's Compensation Board at address shown on reverse side within ten (10) days after accident occurs. Copy also should be sent to your insurance carrier.

W.C.B. CASE NUMBER	CARRIER'S CASE NUMBER	CODE NO.	DATE OF ACCIDENT
WCB	CNY 10838-75R	100	12-11-75

ENTER CASE NUMBERS, IF KNOWN, IN ABOVE SPACES

		S. S. # 265-68-0702
1. EMPLOYER	NAME THE CITY OF NEW YORK	DEPT. Goldwater Memorial Hospital
2. SELF INSURED	THE CITY OF NEW YORK	EXEMPT FROM EMPLOYEE'S S. S. ACCT. NO. LAW DEPARTMENT WORKMEN'S COMPENSATION SECT.
3. INJURED PERSON	Pene Grinan (First Name) (Middle Initial) (Last Name)	157 14th. St. Hoboken, N. J. (Home Address)

EMPLOYER

4. THE EMPLOYER IS A MUNICIPAL CORPORATION

ACCIDENT

5. Address where accident occurred (Include county) Goldwater Memorial Hospital
Roosevelt Island, N. Y. 10004 Ward "B" 41
6. Date of accident: 12/11/75, Day of Week Thurs. Hour of Day 11:55 A. M. P. M.
If occupational illness, date of initial diagnosis: 19
7. (a) Date disability began: 12/13/75 (b) Was injured paid in full for this day? Yes Hour of Day A. M. P. M.
8. Name of Department (where regularly employed) and foreman Nursing Division
Ms. Matias
9. When did you or foreman first know of injury? 12-11-75
10. Name and addresses of witnesses: None
11. (a) Marital status: Single (b) Sex Male
12. Age: 49 13. Did you have on file employment certificate or permit?
14. Occupation: (a) Job title for which employed: Staff Nurse
(b) Occupation when injured: Staff Nurse
15. (a) How long employed by you? 7-1-74 (b) Piece or time worker?
(c) Hours per day: 7 1/2 (d) Days per week: 5
16. Earnings in your employ: (a) Rate per: Hour \$ Day \$ Week \$ Month \$

INJURED
PERSON

INJURED
PERSONNATURE OF
INJURY
OR
OCCUPA-
TIONAL
DISEASEFATAL
CASESCAUSE OF
ACCIDENT
OR
OCCUPA-
TIONAL
DISEASE

11. (a) Marital status: Single (b) Sex: Male
12. Age: 49 13. Did you have on file employment certificate or permit? _____
14. Occupation: (a) Job title for which employed: Staff Nurse
(b) Occupation when injured: Staff Nurse
15. (a) How long employed by you? 7-1-74 (b) Piece or time worker? _____
(c) Hours per day: 7 1/2 (d) Days per week: 5
16. Earnings in your employ: (a) Rate per: Hour \$ _____ Day \$ _____ Week \$ _____ Month \$ _____
(b) Total earnings paid during year prior to date of accident: (include bonuses paid, value of board, lodging, etc.) \$ 13,421.00 Average per week: \$ _____
(c) Bonuses or premiums paid and included in item 16(b) above: \$ _____ (d) Estimated value of board, lodging, or other advantages in addition to wages: (included in item 16(b) above) \$ _____
(e) Calendar weeks in past 52 in same kind of work as at time of injury: _____
17. State nature of injury and part or parts of body affected: (as "Injury to Chest," etc.) Mild pain 2nd. right middle finger
18. Did you provide medical care? Yes If so, when? 12-11-75
19. Name and address of physician: S. Pamphile M. D.
20. Name and address of hospital: Goldwater Memorial Hospital Roosevelt Island, N.Y. 10044
21. Probable length of disability: _____
22. (a) Has employee returned to work? No (b) If so, give date: _____
(c) At what occupation? _____ (d) At what weekly wage? \$ _____
- NOTE: Form C-11 must be filed each time there is any change in the employment status as reported in item 22 above.
23. Has injured died? No (a) If so, give date of death: _____
(b) Name and address of nearest relative: _____
24. (a) What was employee doing when accident occurred? (Describe briefly as "loading truck," "operating press," "shoveling dirt," "painting with spray gun," "walking downstairs," etc.) Assisting doctor was stuck on right middle finger with dirty needle.
(b) Where did accident occur? (Specify whether on the employer's premises, and indicate if in street, factory yard, on loading platform, in factory, etc.) Ward #6 41 Goldwater Memorial Hospital, Roosevelt Island, N. Y. 10044
25. How was accident or occupational disease sustained? (Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed to accident. Use additional sheet if necessary. Employee states: While assisting a doctor he was stuck on his right middle finger with a dirty needle.
26. (a) What specific machine, tool, appliance, gas, liquid, or other substance or object was most closely connected with this accident or occupational disease? _____
(b) If mechanical apparatus or vehicle, what part of it? (State if gears, pulley, motor, etc.) _____
27. Were mechanical guards or other safeguards (such as goggles) provided? _____ (a) Were they in use at time of accident? Yes (b) Was machine, tool, or object defective? _____ If so, in what way? _____

Enter "X" in this box if accident was reported on Form C-2.1

Enter "X" in this box if accident was previously reported on Form C-2.5

DATE OF THIS REPORT: _____
FIRM NAME: Goldwater Memorial Hospital
SIGNED BY: C. Quacken Assistant Personnel Director

Official 1.

C-2

C-2

C-2

C-2

C-2

~~EXH~~ - ~~9~~ - EXH "G-2"

1-B

4. Indicate whether business is operated by an individual owner, partnership or corporation
Public-benefit Corporation - City of New York

If business is operated by:

H-2,

- a. Individual owner - Enter name and address of owner.
b. Partnership - Enter name and address of each partner.
c. Corporation - Enter name, title and address of the president and/or other corporate officer to whom notices should be sent.

Name _____ Name _____
Address _____ Address _____

5. You may present below any defenses or comments with respect to the attached complaint.
Complaint is totally without merit. Employee was not discharged
as alleged, but rather has been AWOL (absent without leave)
and steadfastly refused to return to duty for four months.

(NOTE TO THE UNITED STATES COURT OF APPEALS. (Absence without permission)
THE IS A PROVED ACTION OF SLANDER MADE BY THE EMPLOYER. IN ACCORDANCE OF
THE EXHIBIT "E" AND THE DETERMINATION MADE BY DEFENDANT STATE OF NEW YORK
HUMAN RIGHTS.

(attach additional sheets, if necessary)

The undersigned hereby affirms, under the penalties of perjury, that he is
Associate Director of Goldwater Memorial Hospital

and that the foregoing statements are true.

Date April 22, 1976

Signature

Louis P. Celano

NOTE: Should copies of notices be sent to the attention of any particular person?
If so, indicate name, title and address, below:

Mr. Steven Goldsmith, Labor Relations Counsel

N.Y.C. Health & Hospitals Corp., 125 Worth Street, N.Y., N.Y. 10013

*To me and
to the person*

WORKMEN'S COMPENSATION LAW

Sec. 120. Discrimination against employees who bring proceedings. It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this chapter. Any employer who violates this section shall be liable to a penalty of not less than one hundred dollars or more than five hundred dollars, as may be determined by the board. All such penalties shall be paid into the state treasury and be applicable to the expenses of administering this chapter. Such penalty shall be collected in like manner as an award of compensation. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination; provided, that if such employee shall cease to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from the liability for such penalties and payments shall be void. *(Effective April 25, 1973)*

Sec. 241. Application of other provisions of chapter. All the powers and duties conferred or imposed upon the chairman and board by this chapter that are necessary for the administration of this article and not inconsistent are, to that extent, hereby made applicable to this article; and none of the other provisions of this chapter pertaining to benefits provided by other articles of this chapter shall be construed to be applicable to this article. The provisions of section one hundred twenty of this chapter shall be applicable as fully as if set forth in this article, except that penalties paid into the state treasury pursuant thereto under this article shall be applied toward the expenses of administering this article. *(Effective April 25, 1973)*

Sec. 111. Information to be furnished by employer. Every employer shall furnish the chairman, upon request, any information required by him to carry out the provisions of this chapter. The chairman or board may examine under oath any employer, officer, agent or employee. An employer or an employee receiving from the chairman a blank with directions to file the same shall cause the same to be properly filled out so as to answer fully and correctly all questions therein, or if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be subscribed by the employer or the employee and affirmed as true under the penalties of perjury and returned to the chairman within the period fixed by the chairman therefor.

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The complaint is therefore ordered dismissed and the file is closed.

THE COMPLAINANT OR ANY PARTY TO THE PROCEEDING BEFORE THE DIVISION MAY APPEAL THIS ORDER TO THE STATE HUMAN RIGHTS APPEAL BOARD AT TWO WORLD TRADE CENTER, 82nd FLOOR, NEW YORK, N. Y. 10047, BY FILING A NOTICE OF APPEAL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF SERVICE OF THIS ORDER.

DATED: MAY 28 1976

STATE DIVISION OF HUMAN RIGHTS

By John Lind
John Lind
Regional Director

TO: Mr. Rene Grinan, complainant
157- 14th Street
Hoboken, New Jersey 07030
P.O. Box 278

City of New York,
Health & Hospital Corporation, respondent
Goldwater Memorial Hospital, respondent
Roosevelt Island
Queens, New York
Att: Mr. Francis Celano,
Director of Personnel

Mr. Francis Celano, respondent
Director of Personnel
City of NY Health & Hospital Corp.
Goldwater Memorial Hospital
Roosevelt Island
Queens, NY

Mr. Howard Garrison, respondent
Director of Nursing
Goldwater Memorial Hospital
Queens, NY 10017

Ms. Mildred Crisp, respondent
Asst. Director of Nursing
Goldwater Memorial Hospital
Roosevelt Island
Queens, NY

CC: Steven J. Goldsmith, Esq.
Labor Relations Counsel

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Since complainant knowingly and willingly disregarded respondent's established procedures applicable to employees in similar circumstances, respondent lawfully applied the available disciplinary procedures and warned complainant that further disregard for the rules and regulations would result in his termination.

There is no reason to believe the respondent retaliated against complainant.

Rene Grinan :

Complainant :

vs. :

City of New York Health and Hospital Corporation;
Goldwater Memorial Hospital; Francis Celano,
Director of Personnel; Howard Garrison, Director
of Nursing; Mildred Crisp, Assistant Director
Respondent of Nursing :

Case Nos. 1e-GC-1151-76
GC-41592-76

DETERMINATION AND ORDER AFTER INVESTIGATION

On March 1, 1976, Rene Grinan, who filed a previous complaint, filed a verified complaint with the State Division of Human Rights charging the above-named respondent with an unlawful discriminatory practice relating to employment by retaliating against him through termination for having filed a previous complaint because of retaliation, in violation of the Human Rights Law of the State of New York.

After investigation, the Division of Human Rights hereby determines that there is no probable cause to believe that the respondents engaged in or are engaging in the unlawful discriminatory practice complained of.

This determination is based on the following:

Complainant alleges that respondent retaliated against him for filing a previous complaint and violated a Conciliation Agreement entered into to settle that complaint in that respondent suspended him and threatened him with termination.

The record reveals that complainant injured himself while on duty. Respondent has an established procedure applicable to all employees who are injured while on duty. This procedure requires employees who are injured while on duty to submit to periodic examinations by respondent's physician and to obtain permission to absent themselves from duty. Complainant absolutely refused to submit to such examinations by respondent's physician and absented himself without permission for an extended period of time. Respondent notified complainant that his continued failure to abide by the regulations would result in disciplinary action and possible termination. Complainant considered himself to be protected from such discipline by the prior Conciliation Agreement and so not required to submit to respondent's rules and regulations applicable to other employees.

EXHIBIT "A"